IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

FRIDAY, THE TENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT APPEAL Nos : 321 & 369 of 2005

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WRIT APPEAL NO : 321 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 18/02/2005 in WP NO : 209 OF 2005 on the file of the High Court.)

Between:

M/s.Relax Bar and Restaurent, a Licensee under IL-17 at Door No.12-5-63, Kandukur (village & Mandal) Prakasam District, reptd. by its Licencee Mr.Narsaiah.

..... APPELLANT

AND

1 The Commissioner of Prohibition & Excise, Government of Andhra Pradesh at Hyderabad.
2 The Prohibition and Excise Superintendent, Prakasam District at Ongole.
3 M/s.Dolphin Bar and Restaurant, IL-17, Door No.12-5-62, Kandukur (Village & Mandal) Prakasam District, reptd., by its Licensee Mr.Chilaka Venkateswarlu.

.....RESPONDENT(S)

Counsel for the Appellant:MR.M.SUDHIR KUMAR

Counsel for the Respondent Nos.1&2: GP FOR PROHIBITION & EXCISE

Counsel for the Respondent No. 3: T. Amarnath Goud

and

WRIT APPEAL NO : 369 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 18/02/2005 in WP NO : 283 OF 2005 on the file of the High Court.)

Between:

M/s.Sai Lakshmi Wines, Kandukur, rept.by its Proprietor, G.Venkateswarlu, S/o.Kondaiah, Kandukur (Village & Mandal),
Prakasam District.

..... APPELLANT

AND

1 The Commissioner of Proh & Excise, Government of Andhra Pradesh at Hyderabad.
2 The Prohibition and Excise Superintendent, Prakasam District at Ongole.
3 M/s.Sai Krishna Wines, reptd. by its licensee D.Gopala Krishna, S/o.Kondaiah, R/o.Kandukur.

.....RESPONDENT(S)

Counsel for the Appellant:MR.M.SUDHIR KUMAR

Counsel for the Respondent Nos.1 and 2: GP FOR PROHIBITION & EXCISE

Counsel for the Respondent No.3: Mr. P. Balamukunda Rao

The Court made the following Common Judgment: (per Sri Devinder Gupta, CJ)

These two appeals are preferred against the common order passed by the learned single judge in Writ Petition Nos. 209 and 283 of 2005. By the said order, the learned single judge, on 18.2.2005, set aside the orders passed by the Commissioner according permission in favour of the appellants herein to shift their respective wine shops, but, observed that the said order will not preclude the Commissioner, Prohibition & Excise to consider the applications of the appellants afresh in accordance with law.

The consideration which prevailed with the learned single judge was that the exercise of power to accord sanction to shift the premises and to grant licence was arbitrary. Learned single judge also found that the Commissioner exercised such power and accorded sanction in favour of the appellants herein, without waiting for the reports and without even verifying the suitability or otherwise of the premises.

There is hardly any ground to interfere with such an order passed by the learned single judge. It is needless to add that the Commissioner while considering the applications of the appellants afresh will have to decide the same in accordance with law as it exists on the day when orders are passed by him. The Commissioner will take appropriate decision on the said applications in accordance with law, within a period of two weeks from the date of receipt of Writ order from the Court, after hearing the parties.

The writ appeals are accordingly dismissed. No costs.

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DEVINDER GUPTA,CJ

DATE: 10th March, 2005

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B. SESHASAYANA REDDY,J

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To

1 The Commissioner of Prohibition & Excise, Government of Andhra

Pradesh at Hyderabad.

2 The Prohibition and Excise Superintendent, Prakasam District at Ongole.
3 Two C.Cs. to the Government Pleader for Prohibition & Excise, High Court Buildings, Hyderabad.

4 Two C.D. copies